

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN ASSEMBLY JUNE 14, 2005

SENATE BILL

No. 76

Introduced by Committee on Budget and Fiscal Review

January 14, 2005

~~An act relating to the Budget Act of 2005.~~*An act to amend the heading of Chapter 14 (commencing with Section 13400) of Division 5 of, to amend Section 13401 of, and to add Article 5.5 (commencing with Section 13446) to Chapter 14 of Division 5 of, the Business and Professions Code, and to amend Sections 384 and 740.8 of, and to add and repeal Section 901 of the Public Utilities Code, relating to energy, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 76, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2005.~~*Energy.*

(1) Existing law requires the Department of Food and Agriculture to adopt specifications for gasoline or automotive spark-ignition fuels for use in internal combustion engines and motor vehicles and to use by reference the latest standards of the American Society for Testing and Materials (ASTM). Existing law also makes it unlawful for any person to sell, offer for sale, or cause or permit to be sold or offered for sale, or deliver or offer for delivery, any petroleum product as a fuel for internal combustion engines at any place where petroleum products are kept or stored for sale, which does not conform to these provisions, unless specified requirements are met.

This bill would add hydrogen fuels to these provisions for use in internal combustion engines and fuel cells in motor vehicles. By expanding the definition of a crime, the bill would impose a state-mandated local program.

The bill would require the department, by January 1, 2008, with the concurrence of the State Air Resources Board, to establish specifications for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles until a standards development organization accredited by the American National Standards Institute (ANSI) formally adopts standards for hydrogen fuels for use in internal combustion engines and fuel cells in motor vehicles. It would require the department, at that time, to adopt those standards, except as specified.

The bill would, until January 1, 2007, appropriate the sum of \$6.5 million from the Motor Vehicle Account to the State Air Resources Board to fund the state's share of various activities relating to hydrogen-powered vehicles. The bill would require the board to prepare certain reports and take other specified actions with respect to hydrogen fuel.

(2) Existing law provides for the collection of funds to provide funds for the Public Interest Research Development, and Demonstration Fund, pertaining to public interest research, development, and demonstration.

This bill would provide that those funds may be expended for transportation related public interest energy research if it provides an electricity ratepayer benefit.

(3) Existing law defines interest of ratepayers in connection with public utilities.

This bill would provide that interests of ratepayers also includes activities that benefit ratepayers and that promote energy efficiency, reduction of health and environmental impacts from air pollution, and greenhouse gas emissions related to electricity and natural gas production and use, and increased use of alternative fuels.

(4) Existing law provides for a surcharge on natural gas to provide low income assistance, energy efficiency and conservation activities, and public interest research and development.

This bill would provide that the funds for public interest energy research and development shall be administered by the Energy Resources Conservation and Development Commission for specified purposes, including specified transportation related purposes. The bill would repeal these provisions on January 1, 2009.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would express the intent of the Legislature to make statutory changes relating to the Budget Act of 2005.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The heading of Chapter 14 (commencing with*
2 *Section 13400) of Division 5 of the Business and Professions*
3 *Code is amended to read:*

4
5 CHAPTER 14. PETROLEUM AND HYDROGEN FUELS
6

7 *SEC. 2. Section 13401 of the Business and Professions Code*
8 *is amended to read:*

9 13401. (a) “Sell” or any of its variants means attempt to sell,
10 offer for sale or assist in the sale of, permit to be sold or offered
11 for sale or delivery, offer for delivery, trade, barter, or expose for
12 sale.

13 (b) “Manufacturer” means manufacturer, refiner, producer, or
14 importer.

15 (c) “Petroleum products” means gasoline, diesel fuel, liquefied
16 petroleum gas only when used as a motor fuel, kerosene, thinner,
17 solvent, liquefied natural gas, pressure appliance fuel, or white
18 gasoline, or any motor fuel, or any oil represented as engine
19 lubricant, engine oil, lubricating or motor oil, or any oil used to
20 lubricate transmissions, gears, or axles.

21 (d) “Barrel,” when applied to petroleum products, consists of
22 42 gallons.

23 (e) “Oil” means motor oil, engine lubricant, engine oil,
24 lubricating oil, or oils used to lubricate transmissions, gears, or
25 axles.

26 (f) “Motor oil” means engine oil, engine lubricant, or
27 lubricating oil.

28 (g) “Gasoline” means a volatile mixture of liquid
29 hydrocarbons, generally containing small amounts of additives,

1 suitable for use as a fuel in spark-ignition internal combustion
2 engines.

3 (h) “Engine fuel” means any liquid or gaseous matter used for
4 the generation of power in an internal combustion engine *or fuel*
5 *cell*. “Motor fuel” means “engine fuel” when that term is used in
6 this chapter.

7 (i) “Motor vehicle fuel” means any product intended for
8 consumption in an internal combustion engine *or fuel cell* to
9 produce the power to self-propel a vehicle designed for
10 transporting persons or property on a public street or highway.

11 (j) “Diesel fuel” means any petroleum product offered for sale
12 which meets the standards prescribed for diesel fuel by this
13 chapter.

14 (k) “Kerosene” means any petroleum product offered for sale
15 which meets the standards prescribed for kerosene by this
16 chapter.

17 (l) “Fuel oil” means any petroleum product offered for sale
18 which meets the standards prescribed for fuel oil by this chapter.

19 (m) “Automotive spark-ignition engine fuel” means any
20 product used for the generation of power in a spark-ignition
21 internal combustion engine.

22 (n) “Compression-ignition engine fuel” means any product
23 used for the generation of power in a compression-ignition
24 internal combustion engine.

25 (o) “Gasoline-oxygenate blend” means a fuel consisting
26 primarily of gasoline along with a substantial amount of one or
27 more oxygenates. For purposes of this section, “substantial
28 amount” means more than 0.35 mass percent oxygen or, if
29 methanol is the only oxygenate, more than 0.15 mass percent
30 oxygen.

31 (p) “Oxygenate” means an oxygen-containing, ashless, organic
32 compound such as an alcohol or ether, which can be used as a
33 fuel or fuel supplement.

34 (q) “Developmental engine fuel” means any experimental
35 automotive spark-ignition engine fuel or compression-ignition
36 fuel which does not meet current standards established by this
37 chapter but has characteristics which may lead to an improved
38 fuel standard or the development of an alternative fuel standard.

1 (r) "Hydrogen" means a fuel composed of the chemical
2 hydrogen intended for consumption in an internal combustion
3 engine or fuel cell.

4 SEC. 3. Article 5.5 (commencing with Section 13446) is
5 added to Chapter 14 of Division 5 of the Business and
6 Professions Code, to read:

7
8 Article 5.5. Standards for Hydrogen
9

10 13446. On or before January 1, 2008, the department, with
11 the concurrence of the State Air Resources Board, shall establish
12 specifications for hydrogen fuels for use in internal combustion
13 engines and fuel cells in motor vehicles until a standards
14 development organization accredited by the American National
15 Standards Institute (ANSI) formally adopts standards for
16 hydrogen fuels for use in internal combustion engines and fuel
17 cells in motor vehicles. The department shall then adopt by
18 reference the latest standards established by the ANSI-accredited
19 standards development organization for hydrogen fuel for use in
20 internal combustion engines and fuel cells in motor vehicles,
21 except that no specification or standard shall be less stringent
22 than is required by state law.

23 SEC. 4. Section 384 of the Public Utilities Code is amended
24 to read:

25 384. (a) Funds transferred to the State Energy Resources
26 Conservation and Development Commission pursuant to this
27 article for purposes of public interest research, development, and
28 demonstration shall be transferred to the Public Interest
29 Research, Development, and Demonstration Fund, which is
30 hereby created in the State Treasury. The fund is a trust fund and
31 shall contain money from all interest, repayments,
32 disencumbrances, royalties, and any other proceeds appropriated,
33 transferred, or otherwise received for purposes pertaining to
34 public interest research, development, and demonstration. Any
35 appropriations that are made from the fund shall have an
36 encumbrance period of not longer than two years, and a
37 liquidation period of not longer than four years.

38 (b) Funds deposited in the Public Interest Research,
39 Development, and Demonstration Fund may be expended for
40 projects that serve the energy needs of both stationary and

1 *transportation purposes if the research provides an electricity*
2 *ratepayer benefit.*

3 (c) The State Energy Resources Conservation and
4 Development Commission shall report annually to the
5 appropriate budget committees of the Legislature on any
6 encumbrances or liquidations that are outstanding at the time the
7 commission's budget is submitted to the Legislature for review.

8 SEC. 5. Section 740.8 of the Public Utilities Code is amended
9 to read:

10 740.8. As used in Section 740.3, "interests" of ratepayers,
11 short- or long-term, mean direct benefits that are specific to
12 ratepayers in the form of safer, more reliable, or less costly gas or
13 electrical service, *consistent with Section 451, and activities that*
14 *benefit ratepayers and that promote energy efficiency, reduction*
15 *of health and environmental impacts from air pollution, and*
16 *greenhouse gas emissions related to electricity and natural gas*
17 *production and use, and increased use of alternative fuels.*

18 SEC. 6. Section 901 is added to the Public Utilities Code, to
19 read:

20 901. (a) Funds allocated pursuant to this article for public
21 interest energy research and development shall be administered
22 by the Energy Resources Conservation and Development
23 Commission consistent with orders and decisions adopted by the
24 commission.

25 (b) One half of funds allocated pursuant to this article for
26 natural gas public interest energy research and development
27 shall be expended pursuant to a strategic research plan jointly
28 developed by the state Air Resources Board and the Energy
29 Resources Conservation and Development Commission to ensure
30 coordination of the state's energy and environmental research
31 priorities. The plan shall be submitted for review and approval to
32 the commission.

33 (c) Up to one-third of the funds allocated pursuant to this
34 article may be used for transportation related public interest
35 energy research and development provided the research provides
36 natural gas ratepayer benefits and those benefits are identified in
37 the plan.

38 (d) Funds allocated in subdivisions (b) and (c) shall not be
39 used for the California Hydrogen Blueprint Plan.

1 (e) *This section shall remain in effect until January 1, 2009,*
2 *and as of that date is repealed unless a later enacted statute*
3 *extends or repeals that date.*

4 SEC. 7. (a) *The sum of six million five hundred thousand*
5 *dollars (\$6,500,000) is hereby appropriated from the Motor*
6 *Vehicle Account to the State Air Resources Board to fund the*
7 *state's share of the following activities:*

8 (1) *The establishment of up to three demonstration hydrogen*
9 *fueling stations in the state. Each station shall provide public*
10 *access, shall meet or exceed the environmental goals of the*
11 *California Hydrogen Blueprint Plan, and shall use renewable*
12 *energy, such as solar energy, to produce and dispense hydrogen,*
13 *or combine fuel dispensing with electricity generation to power*
14 *the station. As a condition of receipt of the funds, the State Air*
15 *Resources Board shall require that each station be open to the*
16 *public during convenient hours, encourage station locations that*
17 *provide a convenient network for hydrogen fueling, encourage*
18 *innovation in design, recognize appropriate buffer zones between*
19 *station location and sensitive receptors, as indicated in public*
20 *meetings and workshops held pursuant to paragraphs (1) and (2)*
21 *of subdivision (d), and mitigate any adverse impacts on affected*
22 *neighborhoods.*

23 (2) *The leasing by the state of a diverse fleet of up to 12*
24 *hydrogen-powered vehicles, and the purchase of up to two*
25 *hydrogen internal combustion engine vehicles such as shuttle*
26 *buses for use in university or airport shuttle operations. These*
27 *vehicles shall demonstrate the viability and functionality of*
28 *hydrogen as a transportation fuel and of hydrogen powered*
29 *vehicle technology.*

30 (3) *The employment of support staff on a two-year, limited*
31 *term basis, to implement this section and to implement the*
32 *activities required pursuant to Chapter 14 (commencing with*
33 *Section 13400) of Division 5 of the Business and Professions*
34 *Code.*

35 (b) *The activities funded pursuant to this section shall*
36 *contribute to the achievement of the following energy and*
37 *environmental goals by 2010:*

38 (1) *A 30 percent reduction in greenhouse gas emissions*
39 *relative to comparable emissions from current-year vehicles.*

1 (2) *The utilization of at least 33 percent new renewable*
2 *resources in the production of hydrogen for vehicles.*

3 (3) *No increase in toxic or smog-forming emissions.*

4 (c) *Projects and vehicle leases entered into pursuant to this*
5 *section shall be selected through a duly-noticed public bidding*
6 *process.*

7 (d) *Prior to expending funds pursuant to this section, the State*
8 *Air Resources Board shall do all of the following:*

9 (1) *Hold at least one public meeting of the CAL-EPA*
10 *Environmental Justice Advisory Committee established pursuant*
11 *to Section 72002 of the Public Resources Code to solicit that*
12 *committee's input on the appropriate siting criteria and location*
13 *of hydrogen fueling stations and production facilities to address*
14 *any environmental justice concerns.*

15 (2) *Hold at least one public workshop in each of the northern,*
16 *central, and southern regions of the state for the purposes of*
17 *accepting public testimony and input on hydrogen production*
18 *and fueling bid criteria, and siting and location criteria.*

19 (3) *Develop and adopt appropriate siting criteria consistent*
20 *with the board's Air Quality and Land Use Handbook. In*
21 *developing these criteria, the board shall consider input from*
22 *public meetings and workshops conducted pursuant to*
23 *paragraphs (1) and (2).*

24 (4) *At least 30 days prior to the adoption of any siting criteria,*
25 *or specific locations, for projects funded pursuant to this section,*
26 *make available to the public those siting criteria and locations*
27 *for review and comment.*

28 (e) *The California Environmental Protection Agency, in*
29 *conjunction with the State Air Resources Board, the Office of*
30 *Environmental Health Hazard Assessment, and any other*
31 *appropriate state entity, shall report to the Legislature every six*
32 *months on implementation of this section, including the status of*
33 *funds expended and compliance with the provisions of this*
34 *section.*

35 (f) *On or before December 31, 2006, the State Air Resources*
36 *Board shall report to the Legislature on the status of*
37 *transportation-related hydrogen activities in other states,*
38 *including a discussion of siting criteria and the selection of*
39 *actual sites, the impact of hydrogen highway infrastructure and*
40 *activities on the affected communities and neighborhoods, and*

1 *the development of hydrogen related business activity in*
2 *California. The report may include recommendations regarding*
3 *the continued deployment of hydrogen fueling stations in the*
4 *state.*

5 *(g) Nothing in this section shall affect any requirement of law*
6 *or regulation affecting the siting, construction, or operation of*
7 *facilities funded pursuant to this section.*

8 *(h) This section shall remain in effect only until January 1,*
9 *2007, and as of that date is repealed, unless a later enacted*
10 *statute, that is enacted before January 1, 2007, deletes or extends*
11 *that date.*

12 *SEC. 8. No reimbursement is required by this act pursuant to*
13 *Section 6 of Article XIII B of the California Constitution because*
14 *the only costs that may be incurred by a local agency or school*
15 *district will be incurred because this act creates a new crime or*
16 *infraction, eliminates a crime or infraction, or changes the*
17 *penalty for a crime or infraction, within the meaning of Section*
18 *17556 of the Government Code, or changes the definition of a*
19 *crime within the meaning of Section 6 of Article XIII B of the*
20 *California Constitution.*

21 ~~SECTION 1. It is the intent of the Legislature to make~~
22 ~~statutory changes relating to the Budget Act of 2005.~~